



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GROVER SELLERS
~~WILLIAM WILSON~~
ATTORNEY GENERAL

Honorable Theophilus S. Painter, President
The University of Texas
University Station
Austin, Texas

Dear Sir:

Opinion No. 0-7091

Re: Whether or not the Board of Regents of the University of Texas can legally expend money from the Available University Fund for the purposes set out herein.

We have your request of July 8, 1946, which reads as follows:

"Your department in Opinion No. 0-4510, addressed to the President of The University of Texas, held in effect that the Board of Regents of The University of Texas had the authority to acquire property by conveyance from the United States Government to be used as a site for an oceanography laboratory on the Gulf of Mexico.

"The University now expects to acquire title to this property in the near future consisting of approximately eleven acres of land on Mustang Island fronting on the Gulf of Mexico near the town of Port Aransas to be used as a site for a marine or oceanography laboratory. There is now located on said premises an old building formerly used as a field office by the United States Army Engineers, and the conveyance from the Government is to include these improvements.

"Assuming that the Board of Regents of The University of Texas does acquire title to this property, together with the improvements situated thereon, will you please advise me whether or not the Regents could legally expend money from the Available University Fund for the purpose of repairing, remodeling and improving said building now on said premises for the purpose of housing a laboratory for the study of marine science or oceanography in connection with courses of study given in The University of Texas at Austin, Texas.

"Furthermore, will you please advise me whether or not the Regents can legally expend money from the Available University Fund for the purpose of erecting new buildings and other improvements on said site for the purpose of a marine laboratory in connection with study and research of oceanography or marine science, the results of which study and research is to be used in connection with instruction and study of courses given at the Main University at Austin, Texas."

We believe that the answer to both your questions is determined by Article 2592, V.A.C.S., applicable portions of which we quote:

"The Board of Regents of the University of Texas and the Board of Directors of the Agricultural and Mechanical College of Texas shall, with the approval of the Legislature, expend the Available University Fund for the construction of buildings on the campuses of their respective institutions and for the extension and improvement of their campuses and for the equipment of buildings thereon in the proportions and amounts hereinafter indicated; * * * *"

Whether this statute is deemed mandatory or merely directory, it strongly negatives the idea that any improvements may be made on the land in question out of the Available University Fund, and we are unable to find such authority elsewhere. Of course, moneys from such fund can be secured through proper legislation.

Therefore, we must answer both your questions in the negative.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Woodrow Edwards
Woodrow Edwards
Assistant

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APPROVED JULY 24, 1946

s/W.V. Geppert
(Acting) ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/A.L.W. Chairman